

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
FRANCHISE GROUP, INC., <i>et al.</i> , ¹)	Case No. 24-12480 (JTD)
)	
Debtors.)	(Jointly Administered)
)	
)	Re: Dkt. 154
)	

**LIMITED OBJECTION OF FRONT STREET KANSAS CITY, LLC TO DEBTORS’
MOTION FOR ENTRY OF ORDER (I) (A) APPROVING BIDDING PROCEDURES
FOR THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE DEBTORS’ ASSETS, (B)
SCHEDULING AN AUCTION AND A SALE HEARING AND APPROVING THE
FORM AND MANNER OF NOTICE THEREOF, (C) APPROVING ASSUMPTION
AND ASSIGNMENT PROCEDURES, AND (D) GRANTING RELATED RELIEF; AND
(II) (A) APPROVING THE SALE OF THE DEBTORS’ ASSETS FREE AND CLEAR
OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, (B) APPROVING
THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND
UNEXPIRED LEASES, AND (C) GRANTING RELATED RELIEF**

Front Street Kansas City, LLC (“Front Street”), by and through its undersigned counsel,
respectfully submits this Limited Objection to Debtors’ Motion and Proposed Order (Dkt. #154).

In support of this Limited Objection, Landlord states as follows:

¹The Debtors in these Chapter 11 Cases, along with the last four digits of their U.S. federal tax identification numbers, to the extent applicable, are Franchise Group, Inc. (1876), Freedom VCM Holdings, LLC (1225), Freedom VCM Interco Holdings, Inc. (2436), Freedom Receivables II, LLC (4066), Freedom VCM Receivables, Inc. (0028), Freedom VCM Interco, Inc. (3661), Freedom VCM, Inc. (3091), Franchise Group New Holdco, LLC (0444), American Freight FFO, LLC (5743), Franchise Group Acquisition TM, LLC (3068), Franchise Group Intermediate Holdco, LLC (1587), Franchise Group Intermediate L, LLC (9486), Franchise Group Newco Intermediate AF, LLC (8288), American Freight Group, LLC (2066), American Freight Holdings, LLC (8271), American Freight, LLC (5940), American Freight Management Company, LLC (1215), Franchise Group Intermediate S, LLC (5408), Franchise Group Newco S, LLC (1814), American Freight Franchising, LLC (1353), Home & Appliance Outlet, LLC (n/a), American Freight Outlet Stores, LLC (9573), American Freight Franchisor, LLC (2123), Franchise Group Intermediate B, LLC (7836), Buddy’s Newco, LLC (5404), Buddy’s Franchising and Licensing LLC (9968), Franchise Group Intermediate V, LLC (5958), Franchise Group Newco V, LLC (9746), Franchise Group Intermediate BHF, LLC (8260); Franchise Group Newco BHF, LLC (4123); Valor Acquisition, LLC (3490), Vitamin Shoppe Industries LLC (3785), Vitamin Shoppe Global, LLC (1168), Vitamin Shoppe Mariner, LLC (6298), Vitamin Shoppe Procurement Services, LLC (8021), Vitamin Shoppe Franchising, LLC (8271), Vitamin Shoppe Florida, LLC (6590), Betancourt Sports Nutrition, LLC (0470), Franchise Group Intermediate PSP, LLC (5965), Franchise Group Newco PSP, LLC (2323), PSP Midco, LLC (6507), Pet Supplies “Plus”, LLC (5852), PSP Group, LLC (5944), PSP Service Newco, LLC (6414), WNW Franchising , LLC (9398), WNW Stores, LLC (n/a), PSP Stores, LLC (9049), PSP Franchising, LLC (4978), PSP Subco, LLC (6489), PSP Distribution, LLC (5242), Franchise Group Intermediate SL, LLC (2695), Franchise Group Newco SL, LLC (7697), and Educate, Inc. (5722). The Debtors’ headquarters is located at 109 Innovation Court, Suite J, Delaware, Ohio 43015.

BACKGROUND

1. On December 3, 2013, AF Company, LLC as landlord and Sears Outlet Stores, LLC as tenant entered into an Outlet Store Lease. A true and correct copy of the Outlet Store Lease is attached hereto as **Exhibit A** and is incorporated herein by reference.

2. On March 11, 2014, AF Company, LLC and Sears Outlet Stores LLC entered into a Lease Supplement, which amended the Outlet Store Lease. A true and correct copy of the Lease Supplement is attached hereto as **Exhibit B** and is incorporated herein by reference. The Outlet Store Lease and the Lease Supplement will be collectively referred to as the “Outlet Store Lease.”

3. On March 3, 2022, AF Company, LLC and Front Street entered into an Assignment and Assumption of Lease, in which Front Street acquired all of the AF Company, LLC’s interest in the Outlet Store Lease. A true and correct copy of the Assignment and Assumption of Lease document is attached hereto as **Exhibit C** and is incorporated herein by reference.

4. On June 20, 2023, Front Street as landlord and American Freight Outlet Stores, LLC (successor by name change to Sears Outlet Stores, LLC) entered into an Amendment to the Outlet Store Lease. Accordingly, the debtor-tenant in this matter is American Freight Outlet Stores, LLC.

LIMITED OBJECTIONS

5. Contrary to 11 U.S.C § 365(b), the Motion and Proposed Order improperly allow leases to be assigned and assumed before any cure cost objections can be resolved.

6. Section 365(d)(4)(A)(i) requires a debtor to assume or reject a lease within 120 days of filing for bankruptcy. Here, the Motion and Proposed Order provides that the assumption and assignment of any Contracts will be “effective only upon the closing of the Sale.” Dkt. #154 at ¶ 48. There is no guaranty that the closing will occur within 120 days or at all. Debtors must

timely assume and cure executory contracts under the Code or, by failing to do so, should be deemed to have rejected any such uncured agreements.

7. Debtors' obligation to pay rent in this case from and after December 1, 2024 is governed by §365(d)(3) which affirmatively requires the Debtor to timely comply with all obligations under the Lease, including the payment of rent when it becomes due. The Proposed Motion and Order, however, do not necessarily comply with this rule. For example, the Sale Term may end mid-month. That cannot override the mandate of §365(d)(3). The Motion and Order should only be approved if it is clear that post-petition rent will be paid timely.

8. Upon the rejection of any lease, the Order should require Debtors (including their agents and consultants): (1) to leave the premises in broom clean condition, (2) that all items left on the premises are abandoned to the landlord (including any items subject to secured creditor claims), and (3) reserve the landlord's right to any damages claims.

JOINDER IN OBJECTIONS OF OTHER LANDLORDS

9. To the extent not inconsistent with this Limited Objection, Front Street joins in the objection of other landlords.

10. Front Street expressly reserves, and does not waive, all of its rights, defenses, limitations and/or exclusions (whether arising under the Outlet Store Lease, applicable law, or otherwise) in respect of the Outlet Store Lease and any claim or matter arising out of or relating thereto, including the right to enforce the applicable Outlet Store Lease provisions.

CONCLUSION

WHEREFORE, Front Street respectfully requests that the Court enter an order resolving its Limited Objection, granting the relief requested herein, and for any other and further relief as this Court deems just and proper.

Date: November 25, 2024

/s/ Daniel K. Hogan

Daniel K. Hogan, Esquire

(DE No. 2814)

HOGAN♦MCDANIEL

1311 Delaware Avenue

Wilmington, DE 19806

(302) 656-7540; (302) 656-7599 (f)

dkhogan@dkhogan.com

Counsel for Front Street Kansas City, LLC